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In re Application of
Patrick CHOLLET
Application No.: 10/501,718
PCT No.: PCT/FR00/00916
Int. Filing Date: 11 April 2000
Priority Date: 29 April 1999
Attorney Docket No.: Q66643
For: DEVICE FOR TREATING A CONTAINER WITH:
MICROWAVE PLASMA

DECISION ON
PETITION

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371. This decision is responsive to applicant's "Petition For Correct Serial Number and Series Assigned" filed in the United States Patent and Trademark Office (USPTO) on 06 May 2004. The petition is treated as a petition under 37 CFR 1.181. Applicant, in effect, requests acceptance of a copy of the U.S. national stage application for international application PCT/FR00/00916 in lieu of the original application filed in the USPTO on 24 October 2001. No petition fee is required.

On 24 October 2001, applicant filed the U.S. national stage application for international application PCT/FR00/00916 including a transmittal letter requesting entry into the national stage in the United States, accompanied by, *inter alia*, a check for the U.S. Basic National Fee of \$890, the English translation of PCT/FR00/0091, drawing sheet and a preliminary amendment. The transmittal letter referenced attorney docket number Q66643 and identified PCT/FR00/00916. Applicant was advised by his postcard receipt that the papers were received in the USPTO on 24 October 2001 and assigned application number 09/959,393.

On 07 January 2001, without having received a Notification of Missing Requirements, applicant filed an executed declaration directed to PCT/FR00/00916, along with \$130 surcharge for filing the oath or declaration after the 30 month period. The transmittal letter identified U.S. serial number 09/959,393. Thereafter, on 28 October 2003, applicant filed a status request.

Having received no office actions, applicant reviewed the USPTO P.A.I.R. system and discovered that U.S. application no.09/959,393 identified their attorney docket number (Q66643) and inventor Patrick Chollet, but did not identify the title and PCT number consistent with their 24 October 2001 filing. Furthermore, counsel discovered that 09/959,393 had issued as a patent!

On 06 May 2004, applicants filed the instant Petition requesting a correct serial number. The petition, in effect, requests acceptance of a copy of the national stage application as filed 24 October 2001, accompanied by a copy of the itemized postcard receipt with USPTO date-stamp 24 October 2001, indicating receipt of, *inter alia*, a national stage filing of PCT/FR00/00916, specification, 13 claims and one drawing sheet.

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that the national stage filing of international application PCT/FR00/00916 comprising 11 sheets, including 13 claims, and a drawing sheet, and a preliminary amendment, among other documents, were deposited with the USPTO on 24 October 2001.

Applicant provided copies of the papers itemized on the post card receipt. The request for national stage entry was received on 24 October 2001, prior to the expiration of the 30 month deadline of 29 October 2001. The papers are assigned U.S. serial number 10/501,718.

The evidence submitted is sufficient to establish that this application was received in the USPTO on 24 October 2001. Accordingly, it is appropriate to accept the copy of the application as a replacement for the missing original application with a deposit date of 24 October 2001.

The declaration filed on 07 January 2002 was located in U.S. application number 09/959,393. A review of the declaration reveals that it identifies each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b) are met.

CONCLUSION

The petition under 37 CFR 1.181 to reconstruct the file is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing as U.S. serial number 10/501,718. The 35 U.S.C. 371 date is **07 January 2002**.

All future correspondence with respect to the U.S. national stage filing of PCT/FR00/00916 should be directed to U.S. serial number **10/501,718**.



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